

AMENDED IN SENATE APRIL 19, 2004

SENATE BILL

No. 1314

Introduced by Senator Ortiz

February 17, 2004

An act to amend Sections 11105 and 14203 of the Penal Code, to amend Section 5164 of the Public Resources Code, and to amend Sections 2432.3 and 13377 of the Vehicle Code, relating to criminal history information, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1314, as amended, Ortiz. Criminal history information.

Existing law requires the Department of Justice to furnish various agencies and entities with specified parts of a person's state summary criminal history information when that information is used for employment, licensing, or certification purposes, and permits the department to furnish that information, upon a showing of a compelling need, to listed entities, as specified. In particular, it requires the department to provide that information to state government officials if required to implement state provisions that expressly refer to specific criminal conduct applicable to a person, and that contain requirements, exclusions, or both, expressly based upon that specified criminal conduct. It similarly requires the department to provide the information to local government officials, if authorized by the local government, and if necessary to implement local provisions that refer to specific criminal conduct applicable to a person and that contain requirements, exclusions, or both, expressly based upon that specified criminal conduct.

This bill would authorize state and local government officials in these circumstances to transmit fingerprint images and related information to the department to be transmitted to the Federal Bureau of Investigation.

This bill would also make numerous changes in that law, some clarifying, some technical, and others expanding or limiting the information that would be provided to specified requesters concerning applicants for employment, licensing, or certification. *It would further state that nothing in its provisions is intended to overrule the decisions, orders, or judgments in 2 specified court cases.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11105 of the Penal Code is amended to
2 read:

3 11105. (a) (1) The Department of Justice shall maintain state
4 summary criminal history information.

5 (2) As used in this section:

6 (A) “State summary criminal history information” means the
7 master record of information compiled by the Attorney General
8 pertaining to the identification and criminal history of any person,
9 such as name, date of birth, physical description, fingerprints,
10 photographs, date of arrests, arresting agencies and booking
11 numbers, charges, dispositions, and similar data about the person.

12 (B) “State summary criminal history information” does not
13 refer to records and data compiled by criminal justice agencies
14 other than the Attorney General, nor does it refer to records of
15 complaints to or investigations conducted by, or records of
16 intelligence information or security procedures of, the office of the
17 Attorney General and the Department of Justice.

18 (b) The Attorney General shall furnish state summary criminal
19 history information to any of the following, if needed in the course
20 of their duties, provided that when information is furnished to
21 assist an agency, officer, or official of state or local government,
22 a public utility, or any other entity, in fulfilling employment,
23 certification, or licensing duties, Chapter 1321 of the Statutes of
24 1974 and Section 432.7 of the Labor Code shall apply:



1 (1) The courts of the state.

2 (2) Peace officers of the state as defined in Section 830.1,
3 subdivisions (a) and (e) of Section 830.2, subdivision (a) of
4 Section 830.3, subdivisions (a) and (b) of Section 830.5, and
5 subdivision (a) of Section 830.31.

6 (3) District attorneys of the state.

7 (4) Prosecuting city attorneys of any city within the state.

8 (5) Probation officers of the state.

9 (6) Parole officers of the state.

10 (7) A public defender or attorney of record when representing
11 a person in proceedings upon a petition for a certificate of
12 rehabilitation and pardon pursuant to Section 4852.08.

13 (8) A public defender or attorney of record when representing
14 a person in a criminal case and if authorized access by statutory or
15 decisional law.

16 (9) Any agency, officer, or official of the state if the criminal
17 history information is required to implement a statute or regulation
18 that expressly refers to specific criminal conduct applicable to the
19 subject person of the state summary criminal history information,
20 and contains requirements or exclusions, or both, expressly based
21 upon that specified criminal conduct. The agency, officer, or
22 official of the state authorized by this paragraph to receive state
23 summary criminal history information may also transmit
24 fingerprint images and related information to the Department of
25 Justice to be transmitted to the Federal Bureau of Investigation.

26 (10) Any city or county, or city and county, or district, or any
27 officer, or official thereof if access is needed in order to assist that
28 agency, officer, or official in fulfilling employment, certification,
29 or licensing duties, and if the access is specifically authorized by
30 the city council, board of supervisors, or governing board of the
31 city, county, or district if the criminal history information is
32 required to implement a statute, ordinance, or regulation that
33 expressly refers to specific criminal conduct applicable to the
34 subject person of the state summary criminal history information,
35 and contains requirements or exclusions, or both, expressly based
36 upon that specified criminal conduct. The city or county, or city
37 and county, or district, or the officer or official thereof authorized
38 by this paragraph may also transmit fingerprint images and related
39 information to the Department of Justice to be transmitted to the
40 Federal Bureau of Investigation.

1 (11) The subject of the state summary criminal history
2 information under procedures established under Article 5
3 (commencing with Section 11120) of Chapter 1 of Title 1 of Part
4 4.

5 (12) Any person or entity when access is expressly authorized
6 by statute if the criminal history information is required to
7 implement a statute or regulation that expressly refers to specific
8 criminal conduct applicable to the subject person of the state
9 summary criminal history information, and contains requirements
10 or exclusions, or both, expressly based upon that specified
11 criminal conduct.

12 (13) Health officers of a city, county, or city and county, or
13 district, when in the performance of their official duties enforcing
14 Section 120175 of the Health and Safety Code.

15 (14) Any managing or supervising correctional officer of a
16 county jail or other county correctional facility.

17 (15) Any humane society, or society for the prevention of
18 cruelty to animals, for the specific purpose of complying with
19 Section 14502 of the Corporations Code for the appointment of
20 level 1 humane officers.

21 (16) Local child support agencies established by Section 17304
22 of the Family Code. When a local child support agency closes a
23 support enforcement case containing summary criminal history
24 information, the agency shall delete or purge from the file and
25 destroy any documents or information concerning or arising from
26 offenses for or of which the parent has been arrested, charged, or
27 convicted, other than for offenses related to the parent's having
28 failed to provide support for minor children, consistent with the
29 requirements of Section 17531 of the Family Code.

30 (17) County child welfare agency personnel who have been
31 delegated the authority of county probation officers to access state
32 summary criminal history information pursuant to Section 272 of
33 the Welfare and Institutions Code for the purposes specified in
34 Section 16504.5 of the Welfare and Institutions Code. Information
35 from criminal history records provided pursuant to this
36 subdivision shall not be used for any purposes other than those
37 specified in this section and Section 16504.5 of the Welfare and
38 Institutions Code. When an agency obtains records obtained both
39 on the basis of name checks and fingerprint checks, final



1 placement decisions shall be based only on the records obtained
2 pursuant to the fingerprint check.

3 (c) The Attorney General may furnish state summary criminal
4 history information upon a showing of a compelling need to any
5 of the following, provided that when information is furnished to
6 assist an agency, officer, or official of state or local government,
7 a public utility, or any other entity, in fulfilling employment,
8 certification, or licensing duties, Chapter 1321 of the Statutes of
9 1974 and Section 432.7 of the Labor Code shall apply:

10 (1) Any public utility as defined in Section 216 of the Public
11 Utilities Code that operates a nuclear energy facility when access
12 is needed in order to assist in employing persons to work at the
13 facility, provided that, if the Attorney General supplies the data,
14 he or she shall furnish a copy of the data to the person to whom the
15 data relates.

16 (2) To a peace officer of the state other than those included in
17 subdivision (b).

18 (3) To a peace officer of another country.

19 (4) To public officers (other than peace officers) of the United
20 States, other states, or possessions or territories of the United
21 States, provided that access to records similar to state summary
22 criminal history information is expressly authorized by a statute of
23 the United States, other states, or possessions or territories of the
24 United States if the information is needed for the performance of
25 their official duties.

26 (5) To any person when disclosure is requested by a probation,
27 parole, or peace officer with the consent of the subject of the state
28 summary criminal history information and for purposes of
29 furthering the rehabilitation of the subject.

30 (6) The courts of the United States, other states, or territories
31 or possessions of the United States.

32 (7) Peace officers of the United States, other states, or
33 territories or possessions of the United States.

34 (8) To any individual who is the subject of the record requested
35 if needed in conjunction with an application to enter the United
36 States or any foreign nation.

37 (9) Any public utility as defined in Section 216 of the Public
38 Utilities Code, if access is needed in order to assist in employing
39 current or prospective employees who in the course of their
40 employment may be seeking entrance to private residences. The

1 information provided shall be limited to the record of convictions
2 and any arrest for which the person is released on bail or on his or
3 her own recognizance pending trial.

4 If the Attorney General supplies the data pursuant to this
5 paragraph, the Attorney General shall furnish a copy of the data to
6 the current or prospective employee to whom the data relates.

7 Any information obtained from the state summary criminal
8 history is confidential and the receiving public utility shall not
9 disclose its contents, other than for the purpose for which it was
10 acquired. The state summary criminal history information in the
11 possession of the public utility and all copies made from it shall be
12 destroyed not more than 30 days after employment or promotion
13 or transfer is denied or granted, except for those cases where a
14 current or prospective employee is out on bail or on his or her own
15 recognizance pending trial, in which case the state summary
16 criminal history information and all copies shall be destroyed not
17 more than 30 days after the case is resolved.

18 A violation of this paragraph is a misdemeanor, and shall give
19 the current or prospective employee who is injured by the violation
20 a cause of action against the public utility to recover damages
21 proximately caused by the violations. Any public utility's request
22 for state summary criminal history information for purposes of
23 employing current or prospective employees who may be seeking
24 entrance to private residences in the course of their employment
25 shall be deemed a "compelling need" as required to be shown in
26 this subdivision.

27 Nothing in this section shall be construed as imposing any duty
28 upon public utilities to request state summary criminal history
29 information on any current or prospective employees.

30 (10) To any campus of the California State University or the
31 University of California, or any four-year college or university
32 accredited by a regional accreditation organization approved by
33 the United States Department of Education, if needed in
34 conjunction with an application for admission by a convicted felon
35 to any special education program for convicted felons, including,
36 but not limited to, university alternatives and halfway houses.
37 Only conviction information shall be furnished. The college or
38 university may require the convicted felon to be fingerprinted, and
39 any inquiry to the department under this section shall include the



1 convicted felon's fingerprints and any other information specified
2 by the department.

3 (d) Whenever an authorized request for state summary criminal
4 history information pertains to a person whose fingerprints are on
5 file with the Department of Justice and the department has no
6 criminal history of that person, and the information is to be used
7 for employment, licensing, or certification purposes, the
8 fingerprint card accompanying the request for information, if any,
9 may be stamped "no criminal record" and returned to the person
10 or entity making the request.

11 (e) Whenever state summary criminal history information is
12 furnished as the result of an application and is to be used for
13 employment, licensing, or certification purposes, the Department
14 of Justice may charge the person or entity making the request a fee
15 that it determines to be sufficient to reimburse the department for
16 the cost of furnishing the information. In addition, the Department
17 of Justice may add a surcharge to the fee to fund maintenance and
18 improvements to the systems from which the information is
19 obtained. Notwithstanding any other law, any person or entity
20 required to pay a fee to the department for information received
21 under this section may charge the applicant a fee sufficient to
22 reimburse the person or entity for this expense. All moneys
23 received by the department pursuant to this section, Sections
24 11105.3 and 12054 of the Penal Code, and Section 13588 of the
25 Education Code shall be deposited in a special account in the
26 General Fund to be available for expenditure by the department to
27 offset costs incurred pursuant to those sections and for
28 maintenance and improvements to the systems from which the
29 information is obtained upon appropriation by the Legislature.

30 (f) Whenever there is a conflict, the processing of criminal
31 fingerprints and fingerprints of applicants for security guard or
32 alarm agent registrations or firearms qualification permits
33 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
34 of the Business and Professions Code shall take priority over the
35 processing of other applicant fingerprints.

36 (g) It is not a violation of this section to disseminate statistical
37 or research information obtained from a record, provided that the
38 identity of the subject of the record is not disclosed.

39 (h) It is not a violation of this section to include information
40 obtained from a record in (1) a transcript or record of a judicial or

1 administrative proceeding or (2) any other public record if the
2 inclusion of the information in the public record is authorized by
3 a court, statute, or decisional law.

4 (i) Notwithstanding any other law, the Department of Justice or
5 any state or local law enforcement agency may require the
6 submission of fingerprints for the purpose of conducting summary
7 criminal history information checks that are authorized by law.

8 (j) The state summary criminal history information shall
9 include any finding of mental incompetence pursuant to Chapter
10 6 (commencing with Section 1367) of Title 10 of Part 2 arising out
11 of a complaint charging a felony offense specified in Section 290.

12 (k) (1) This subdivision shall apply whenever state or federal
13 summary criminal history information is furnished by the
14 Department of Justice as the result of an application by an
15 authorized agency or organization and the information is to be
16 used for peace officer employment or certification purposes. As
17 used in this subdivision, a peace officer is defined in Chapter 4.5
18 (commencing with Section 830) of Title 3 of Part 2.

19 (2) Notwithstanding any other provision of law, whenever state
20 summary criminal history information is furnished pursuant to
21 paragraph (1), the Department of Justice shall disseminate the
22 following information:

23 (A) Every conviction rendered against the applicant.

24 (B) Every arrest for an offense for which the applicant is
25 presently awaiting trial, whether the applicant is incarcerated or
26 has been released on bail or on his or her own recognizance
27 pending trial.

28 (C) Every arrest ~~for which the applicant was not exonerated,~~
29 ~~whether or not the records of the Department of Justice contain a~~
30 ~~disposition, provided that~~ *or detention, except for an arrest or*
31 *detention resulting in an exoneration, provided however that*
32 *where the records of the Department of Justice do not contain a*
33 *disposition for the arrest,* the Department of Justice first makes a
34 genuine effort to determine the disposition of the arrest.

35 (D) Every ~~detention or~~ successful diversion.

36 (l) (1) This subdivision shall apply whenever state or federal
37 summary criminal history information is furnished by the
38 Department of Justice as the result of an application by a criminal
39 justice agency or organization as defined in Section 13101 of the

1 Penal Code, and the information is to be used for criminal justice
2 employment, licensing, or certification purposes.

3 (2) Notwithstanding any other provision of law, whenever state
4 summary criminal history information is furnished pursuant to
5 paragraph (1), the Department of Justice shall disseminate the
6 following information:

7 (A) Every conviction rendered against the applicant.

8 (B) Every arrest for an offense for which the applicant is
9 presently awaiting trial, whether the applicant is incarcerated or
10 has been released on bail or on his or her own recognizance
11 pending trial.

12 (C) Every arrest for an offense for which the records of the
13 Department of Justice do not contain a disposition or did not result
14 in a conviction, provided that the Department of Justice first makes
15 a genuine effort to determine the disposition of the arrest.
16 *However, information concerning an arrest shall not be disclosed*
17 *if the records of the Department of Justice indicate or if the genuine*
18 *effort reveals that the subject was exonerated, successfully*
19 *completed a diversion or deferred entry of judgment program, or*
20 *the arrest was deemed a detention.*

21 (m) (1) This subdivision shall apply whenever state or federal
22 summary criminal history information is furnished by the
23 Department of Justice as the result of an application by an
24 authorized agency or organization pursuant to Section 1522,
25 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
26 any statute that incorporates the criteria of any of those sections or
27 this subdivision by reference, and the information is to be used for
28 employment, licensing, or certification purposes.

29 (2) Notwithstanding any other provision of law, whenever state
30 summary criminal history information is furnished pursuant to
31 paragraph (1), the Department of Justice shall disseminate the
32 following information:

33 (A) Every conviction of an offense rendered against the
34 applicant.

35 (B) Every arrest for an offense for which the applicant is
36 presently awaiting trial, whether the applicant is incarcerated or
37 has been released on bail or on his or her own recognizance
38 pending trial.

39 (C) Every arrest for an offense for which the Department of
40 Social Services is required by paragraph (1) of subdivision (a) of

1 Section 1522 of the Health and Safety Code to determine if an
2 applicant has been arrested. However, if the records of the
3 Department of Justice do not contain a disposition for an arrest, the
4 Department of Justice shall first make a genuine effort to
5 determine the disposition of the arrest.

6 (3) Notwithstanding the requirements of the sections
7 referenced in paragraph (1) of this subdivision, the Department of
8 Justice shall not disseminate information about an arrest
9 subsequently deemed a detention or an arrest that resulted in either
10 the successful completion of a diversion program or exoneration.

11 (n) (1) This subdivision shall apply whenever state or federal
12 summary criminal history information is furnished by the
13 Department of Justice as the result of an application by an
14 authorized agency, organization, or individual pursuant to Section
15 11105.3 or 11105.4 of this code, Section 15660 of the Welfare and
16 Institutions Code, or any statute that incorporates the criteria of
17 any of those sections or this subdivision by reference, and the
18 information is to be used for employment, licensing, or
19 certification purposes.

20 (2) With the exception of applications submitted by
21 transportation companies authorized pursuant to Section 11105.3,
22 and notwithstanding any other provision of law, whenever state
23 summary criminal history information is furnished pursuant to
24 paragraph (1), the Department of Justice shall disseminate the
25 following information:

26 (A) Every conviction rendered against the applicant for a
27 violation or attempted violation of any offense specified in
28 subdivision (a) of Section 15660 of the Welfare and Institutions
29 Code. However, with the exception of those offenses for which
30 registration is required pursuant to Section 290, the Department of
31 Justice shall not disseminate information pursuant to this
32 subdivision unless the conviction occurred within 10 years of the
33 date of the agency's request for information or the conviction is
34 over 10 years old but the subject of the request was incarcerated
35 within 10 years of the agency's request for information.

36 (B) Every arrest for a violation or attempted violation of an
37 offense specified in subdivision (a) of Section 15660 of the
38 Welfare and Institutions Code for which the applicant is presently
39 awaiting trial, whether the applicant is incarcerated or has been
40 released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 261 or 777.5 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 777.5 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 777.5 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant

1 to Section 11105.2. This subdivision shall not supersede sections
2 that mandate an agency, organization, or individual to contract
3 with the Department of Justice for subsequent arrest notification
4 pursuant to Section 11105.2.

5 (r) Nothing in this section shall be construed to mean that the
6 Department of Justice shall cease compliance with any other
7 statutory notification requirements.

8 (s) *The provisions of Section 50.12 of Title 28 of the Code of*
9 *Federal Regulations are to be followed in processing federal*
10 *criminal history information.*

11 SEC. 2. Section 14203 of the Penal Code is amended to read:

12 14203. (a) The online missing persons registry shall accept
13 and generate complete information on a missing person.

14 (b) The information on a missing person shall be retrievable by
15 any of the following:

16 (1) The person's name.

17 (2) The person's date of birth.

18 (3) The person's social security number.

19 (4) Whether a dental chart has been received, coded, and
20 entered into the National Crime Information Center Missing
21 Person System by the Attorney General.

22 (5) The person's physical description, including hair and eye
23 color and body marks.

24 (6) The person's known associates.

25 (7) The person's last known location.

26 (8) The name or assumed name of the abductor, if applicable,
27 other pertinent information relating to the abductor or the assumed
28 abductor, or both.

29 (9) Any other information, as deemed appropriate by the
30 Attorney General.

31 (c) The Attorney General, in consultation with local law
32 enforcement agencies and other user groups, shall develop the
33 form in which information shall be entered into the system.

34 (d) The Attorney General shall establish and maintain within
35 the center a separate, confidential historic database relating to
36 missing children and dependent adults. The historic database may
37 be used only by the center for statistical and research purposes. The
38 historic database shall be set up to categorize cases relating to
39 missing children and dependent adults by type. These types shall
40 include the following: runaways, voluntary missing, lost,

abduction involving movement of the victim in the commission of the crime or sexual exploitation of the victim, nonfamily abduction, family abduction, and any other categories as determined by the Attorney General. In addition, the data shall include the number of missing children and missing dependent adults in this state and the category of each case.

(e) The center may supply information about specific cases from the historic database to a local police department, sheriff's department, or district attorney, only in connection with an investigation by the police department, sheriff's department, or district attorney of a missing person case or a violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4.

SEC. 3. Section 5164 of the Public Resources Code is amended to read:

5164. (a) (1) A county or city or city and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if that person has been convicted of any offense specified in paragraph (2).

(2) (A) Violations or attempted violations of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or any sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) Any felony or misdemeanor conviction *specified in subparagraph (C)* within 10 years of the date of the employer's request, ~~or any~~.

(C) Any felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of *any of the offenses specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code,*

1 Section 236 of the Penal Code, *any of the offenses specified in*
2 Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of
3 the Penal Code, or ~~for a violation of~~ any of the offenses specified
4 in subdivision (c) of Section 667.5 of the Penal Code, provided
5 that no record of a misdemeanor conviction shall be transmitted to
6 the requester unless the subject of the request has a total of three
7 or more misdemeanor ~~or~~ *convictions, or a combined total of three*
8 *or more misdemeanor and felony convictions, for violations* listed
9 in this section within the 10-year period immediately preceding
10 the employer's request or has been incarcerated for any of those
11 convictions within the preceding 10 years.

12 (b) (1) To give effect to this section, a county or city or city and
13 county or special district shall require each such prospective
14 employee or volunteer to complete an application that inquires as
15 to whether or not that individual has been convicted of any offense
16 specified in subdivision (a). The county or city or city and county
17 or special district shall screen, pursuant to Section 11105.3 of the
18 Penal Code, any such prospective employee or volunteer, having
19 supervisory or disciplinary authority over any minor, for that
20 person's criminal background.

21 (2) Any local agency requests for Department of Justice
22 records pursuant to this subdivision shall include the prospective
23 employee's or volunteer's fingerprints, which may be taken by the
24 local agency, and any other data specified by the Department of
25 Justice. The request shall be made on a form approved by the
26 Department of Justice. No fee shall be charged to the local agency
27 for requesting the records of a prospective volunteer pursuant to
28 this subdivision.

29 SEC. 4. Section 2432.3 of the Vehicle Code is amended to
30 read:

31 2432.3. (a) This article does not preempt the authority of any
32 city, city and county, or county to regulate, pursuant to subdivision
33 (g) of Section 21100, any of the matters covered by this article.

34 (b) (1) For the purposes of verifying the criminal history of
35 individuals involved in the operation of tow truck services, law
36 enforcement agencies of any city, city and county, or county may
37 conduct criminal history checks for all of the following:

38 (A) Applicants for employment to drive tow trucks.

39 (B) Those who drive tow trucks.

40 (C) Tow truck owners-operators.

(2) The law enforcement agency may obtain the fingerprints of the individuals on a form approved by the Department of Justice and provided by the agency. The fingerprint samples shall be submitted to the Department of Justice for the purpose of determining whether the individual has been convicted of any violation, including, but not limited to, Section 220, subdivision (1), (2), (3), or (4) of Section 261, or Section 264.1, 267, 288, or 289 of the Penal Code, or any felony or three misdemeanors as set forth in subparagraph (B) of paragraph (2) of subdivision (a) of Section 5164 of the Public Resources Code.

(3) For purposes of conducting criminal history screening of tow truck driver applicants, employees, and employers who have not resided continuously in the state for the previous seven years, the law enforcement agency of any city, city and county, or county, may obtain a second set of fingerprints, when necessary, and may submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks.

(c) The law enforcement agency of any city, city and county, or county may charge a fee sufficient to cover the cost of obtaining and processing the fingerprint cards through the Department of Justice.

(d) For the purposes of conducting driver history screening of applicants to drive tow trucks, employees, and owners-operators, the law enforcement agency of any city, city and county, or county may verify that the applicant or owner-operator, as the case may be, has a valid California driver's license of the proper class, through the use of the automated records system.

(e) The Department of Justice shall develop a procedure whereby it will notify the requesting law enforcement agency if the person fingerprinted has been convicted of any of the specified crimes or is convicted of a specified crime subsequent to employment or beginning operation of a tow service. The Department of Justice shall release the requested information to the requesting agency.

(f) Information released to the requesting agency may be utilized for licensing and regulating procedures established pursuant to subdivision (g) of Section 21100.

(g) Information released to the requesting agency shall be related to its inquiry, shall remain confidential, and shall not be made public.

1 SEC. 5. Section 13377 of the Vehicle Code is amended to
2 read:

3 13377. (a) The department shall not issue or renew, or shall
4 revoke, the tow truck driver certificate of an applicant or holder for
5 any of the following causes:

6 (1) The tow truck driver certificate applicant or holder has been
7 convicted of a violation of Section 220 of the Penal Code.

8 (2) The tow truck driver certificate applicant or holder has been
9 convicted of a violation of paragraph (1), (2), (3), or (4) of
10 subdivision (a) of Section 261 of the Penal Code.

11 (3) The tow truck driver certificate applicant or holder has been
12 convicted of a violation of Section 264.1, 267, 288, or 289 of the
13 Penal Code.

14 (4) The tow truck driver certificate applicant or holder has been
15 convicted of any felony or three misdemeanors as set forth in
16 subparagraph (B) of paragraph (2) of subdivision (a) of Section
17 5164 of the Public Resources Code.

18 (5) The tow truck driver certificate applicant's or holder's
19 driving privilege has been suspended or revoked in accordance
20 with any provisions of this code.

21 (b) For purposes of this section, a conviction means a plea or
22 verdict of guilty or a conviction following a plea of nolo
23 contendere. For purposes of this section, the record of a
24 conviction, or a copy thereof certified by the clerk of the court or
25 by a judge of the court in which the conviction occurred, is
26 conclusive evidence of the conviction.

27 (c) Whenever the department receives information from the
28 Department of Justice, or the Federal Bureau of Investigation, that
29 a tow truck driver has been convicted of an offense specified in
30 paragraph (1), (2), (3), or (4) of subdivision (a), the department
31 shall immediately notify the employer and the Department of the
32 California Highway Patrol.

33 (d) An applicant or holder of a tow truck driver certificate,
34 whose certificate was denied or revoked, may reapply for a
35 certificate whenever the applicable felony or misdemeanor
36 conviction is reversed or dismissed. If the cause for the denial or
37 revocation was based on the suspension or revocation of the
38 applicant's or holder's driving privilege, he or she may reapply for
39 a certificate upon restoration of his or her driving privilege. A
40 termination of probation and dismissal of charges pursuant to



1 Section 1203.4 of the Penal Code or a dismissal of charges
2 pursuant to Section 1203.4a of the Penal Code is not a dismissal
3 for purposes of this section.

4 SEC. 6. *Nothing in this statute is intended overrule the*
5 *decisions, orders, or judgments in Central Valley v. Younger or the*
6 *related case of Greshler v. Deukmejian (Alameda Superior Court*
7 *Nos. 497394-6 and 524298-6).*

8 SEC. 7. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety
10 within the meaning of Article IV of the Constitution and shall go
11 into immediate effect. The facts constituting the necessity are:

12 To allow for proper criminal history information to be provided
13 to appropriate requesters as necessary for public safety at the
14 earliest possible time, it is necessary that this bill take effect
15 immediately.

